



**VANCOUVER POLICE DEPARTMENT** | *Beyond the Call*

March 30, 2022

**I&P Unit Reference: 21-1239A**

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**Re: Records Access Request**

We are replying to your request for information that was received in our office on December 15, 2021. In that request, you sought access to the following VPD Information:

1. The policy or directive by which the police board encourages officers to determine whether pursuit of an investigation or filing a report is with Crown Council is warranted
2. The policy of arrests made when children are present. There is significant research about the harm done by authoritarian figures arresting parents in front of children and their later legal system involvement
3. The policy regarding not pursuing criminal charges for minor offences, or referring a matter for Alternative Measures
4. The breakdown by gender and race of those individuals police release on a Promise to Appear or Police Undertaking versus those held over for a bail hearing

Upon receipt of your request we contacted our Planning, Research and Audit Section. They provided us with the following documentation (Pdf's attached):

- RPM 1.5.1 Compelling an Accused's Attendance At Court- Issuing Appearance Notices (ANs) (Federal and Provincial) and Undertakings.
- RPM 1.6.8 Completion of Investigations
- VPD Operational Bulletin- Bill C-75 and circumstances of Indigenous accused
- Criminal Code Updates (Bill C-75) Bail Reform Infographic

The attached policies are the only VPD policies that are related to your request. We note RPM 1.5.1 reads: "For most offences, when a person is arrested without a warrant, the arresting member is obliged to release the person if court appearance and public interest criteria are satisfied (*Criminal Code* sections: 497, 498, 500, 501, and 503). Members must also give primary consideration to the

release of the person at the earliest reasonable opportunity and on the least onerous conditions that are appropriate in the circumstances, including conditions that are reasonably practicable for the person to comply with.”

- This indicates that much of the discretion (of whether an officer is going to release or take the offender for judicial release (bail hearing) is removed, and officers aren't arbitrarily deciding who goes to bail hearings or who gets an AN/UTA; they must release if court appearance/public interest (which is continuation of the offence, public safety, identity of the accused) are satisfied.

We note RPM 1.6.8 discusses factors for continuing an investigation (solvability, pursuing charges).

Further to items 2 and 3 above there are no VPD policies on Alternative Measures or making arrests when children are present. Both are dealt with through training, and members attempt to not make the physical arrest/handcuffing in front of children whenever possible.

Finally, with regards to item number 4 above we have been advised that retrieving this data would require a manual review of each file, as this type of data is not readily retrievable by our systems and is not in a form that can be compiled. It is our position that section 6 of the Freedom of Information and Protection of Privacy Act (FOIPPA) does not require this level of retrieval.

If you have any questions, please contact the Information and Privacy Unit at (604) 717-3071 or email [foi@vpd.ca](mailto:foi@vpd.ca).

Yours truly,



Civilian Analyst (VA5029)  
Information and Privacy Unit  
/ks



# Criminal Code Updates (Bill C-75)

## Arrest | Release | Bail Reform

Effective  
December 18, 2019

The final Bill C-75 amendment rolls out on December 18, 2019. This phase includes updates to release documents and conditions, different options for processing breaches of administration of justice offences, and new principles of restraint that will influence the release of the accused.

### NEW PRINCIPLES AND CONSIDERATIONS WHEN COMPELLING AN ACCUSED TO COURT



A peace officer **shall** consider releasing the accused at the earliest reasonable opportunity and on the least onerous conditions that are appropriate in the circumstances, reasonably practicable for the accused to comply with, and still accounting for public interest and court appearance.

A peace officer **shall** give particular attention to the circumstances of an Aboriginal accused and accused who belong to a vulnerable population that is overrepresented in the criminal justice system and that is disadvantaged in obtaining release.

### CHANGES TO UNDERTAKING RELEASE CONDITIONS sec. 501(3)(a-k)



#### Removal of the following condition

- Abstain from consumption of alcohol or other intoxicating substances/consumption of drugs



#### Addition of the following conditions

- Curfew condition (must reside at prescribed residence/be there between specific hours)

#### Sureties

##### Must Pay \$

- no more than \$500 if fail to comply with conditions

#### Sureties

##### Must Deposit \$

- no more than \$500 if you are not a resident of BC or do not reside within 200km of place taken into custody



The “no-go” conditions are separated into two conditions and used in relation to victim/witness/person specified in Undertaking

**NO GO TO  
any specified locaiton**

**NO TO ENTER  
any geographic area**

All conditions must relate to the offence and the justification must be articulated in the report.

### ADMINISTRATION OF JUSTICE OFFENCES

#### Failure to Comply

- Appearance Notice
- Undertaking
- Summons
- Release order

#### Failure to Appear

- Court

#### Failure to Appear

- Fingerprinting/photographing

Reverse onus provisions under sec. 515(6) still apply.

Release options: take before a justice, AN, undertaking warrant, or summons

Sec.  
145

#### ARREST AND CHARGE

Arrest for the breach, sec. 145(1-5)  
(sec. 495 is your arrest authority)

Sec.  
524

#### ARREST BUT NOT A CHARGE

For purpose of taking them before a judge/justice  
(sec. 495.1 is your arrest authority)

Sec.  
496

#### DETAIN TO RELEASE ON AN APPEARANCE NOTICE FOR JUDICIAL REFERRAL HEARING

New option to release:

Section 496 is your authority to issue an AN for a JRH (Sec.523.1)  
JRH is not used where the breach caused physical or emotional harm, property damage or economic loss to the victim.

## HOW DOES THIS IMPACT YOU?

### YOUR FORMS HAVE CHANGED

Effective Dec 18, the FAN, PTA, UTA will no longer be used.  
Instead we'll have two new forms:

Appearance  
Notice

Undertaking

### RPM MODIFICATIONS

- 1.5.1 Issuing Appearance Notices and PTA's
- 1.5.3 Cancelling an Appearance Notice or PTA
- 1.5.4 Failure to Appear for Fingerprints and Photographs
- 1.6.49 Breach of Undertaking, Recognizance, CSO, Probation

## WHERE CAN YOU FIND YOUR OTHER NEW AUTHORITIES?



#### Sec. 497

The new sec. 497 is the old sec. 496 (Issue of AN by peace officer)

#### Sec. 499

Release from custody – arrest with warrant (ENDORSED)

This new section gives authority to all police not just OIC.

FOR OPERATIONAL ITEMS:

**IMPORTANT: Bill C-75 and circumstances of Indigenous accused**

The Training Unit has identified a pattern of incorrectly applying S. 493.2 (below), the newly legislated Criminal Code principle of giving particular attention to the circumstances of Indigenous accused under Part XVI of the Code.

- If an accused is Indigenous, there is no authority or guideline that suggests officers decide not to proceed with investigating, nor to decide to close a file based solely on the status of the accused
- The status of the accused, if Indigenous, comes into play primarily **when making decisions around release**:
  - In cases where an accused is Indigenous, members must be aware of implicit biases and base decisions on facts and criminality
- Members do have (and always have had) discretion when considering whether to make an arrest, regardless of the status of the accused. However, members should use discretion carefully, and decisions must be justifiable and fully articulated in the member's G.O.
- In particular, in cases where there is violence, discretion will seldom be applied when considering whether to making an arrest or forward charges to Crown
- When attending to an incident of a real offence, a report must be entered in PRIME (not cleared in CAD)

**Criminal Code Section 493.2**

In making a decision under this Part, a peace officer, justice or judge shall give particular attention to the circumstances of

(a) Aboriginal accused; and

(b) accused who belong to a vulnerable population that is overrepresented in the criminal justice system and that is disadvantaged in obtaining release under this Part.

**For the related Bill C-75 Infographic, [click this link](#).**

(Submitted by Cst 2253 Wigglesworth, Training Unit; Approved by DCC 1435 Chow)

2020 February 13

## 1.5 Compelling an Accused's Attendance at Court

### 1.5.1 Issuing Appearance Notices (ANs) (Federal & Provincial) and Undertakings

(Enacted: 2000.08.08)  
(Effective: 2022.01.21)  
(Reviewed: 2022.01.21)

#### **POLICY**

The police may compel a person's attendance in court through various means. For most offences, when a person is arrested without a warrant, the arresting member is obliged to release the person if court appearance and public interest criteria are satisfied (*Criminal Code* sections: 497, 498, 500, 501, and 503). Members must also give primary consideration to the release of the person at the earliest reasonable opportunity and on the least onerous conditions that are appropriate in the circumstances, including conditions that are reasonably practicable for the person to comply with. This section illustrates the correct procedures to follow when federal or provincial appearance notices (AN) or undertakings are issued for adult or community court.

For young persons, refer to [RPM Section 1.6.47\(ii\) Charges and Arrests - Young Persons](#). For judicial hearings, refer to [RPM Section 1.6.49 Failure to Comply with \(Breach of\) Undertaking, Release Order, Conditional Sentence Order, or Probation](#).

See also: [RPM Section 1.4.2 Warrant Arrests](#).

#### ***Release Documents***

##### **Federal Appearance Notice (FAN)**

Section 497, 498(1)(b), 499(a), and 503(1.1)(a) of the *Criminal Code* covers the types of offences for which a FAN may be issued. A FAN may be issued pursuant to a lawful detention (for example an impaired investigation) that did not result in an arrest. A FAN does not have a mechanism by which conditions may be imposed upon release, as it is simply used to compel court attendance and fingerprinting. A FAN should only be issued when there are no court appearance or public interest concerns.

##### **Provincial Appearance Notice (PAN)**

A PAN is issued in circumstances where a power of arrest exists under a provincial statute and/or for those offences indicated in Schedule 1, Columns 2 or 3 of the [Offence Act, Violation Ticket Administration and Fines Regulation](#) (e.g., "Driving while prohibited" *Motor Vehicle Act* and *Safe Streets Act* offences).

##### **Undertaking**

A police officer's power to release a lawfully arrested person on an undertaking can be found under section 498(1)(c), 499(b) and 503(1.1)(b) of the *Criminal Code*. An undertaking may be issued at various stages throughout the investigation (i.e., it will be completed at the scene when public interest and court appearance criteria are satisfied). In other instances, the person may have to be transported to jail until the public interest concerns are addressed; after which time the person may be released on an undertaking. An undertaking is used to impose specific conditions on the person pursuant to section 501 of the *Criminal Code* to satisfy public interest concerns.

#### ***Additional Release Considerations***

When considering the release of a person, section 493.2 of the *Criminal Code* requires members give particular attention to the circumstances of:

- Indigenous people; and
- vulnerable populations that are overrepresented in the criminal justice system and that are disadvantaged in obtaining release.

## PROCEDURE

### Adult Court

- Based on the requirements of the investigation and to meet court administrative needs, members shall allow a minimum of eight calendar weeks, or as soon as practicable, but no longer than ten months, between the date the AN or undertaking is issued and the initial court appearance. In selecting the appropriate initial court appearance date, members should consider:
  - what evidence remains to be gathered to complete the file and what time frame is required to conduct follow-up;
  - eight weeks would be a reasonable time frame for most routine investigations;
  - on more complex files, a lengthier return date may be required (ten months should be considered a maximum limit and only given in extenuating circumstances);
  - Consider the circumstances, and when there are public interest concerns that can be addressed through the imposition of conditions in an undertaking, articulate it in the bail comments. The available parameters for release conditions that can be issued by the police are listed in sections 501(3)(a) through (k) of the *Criminal Code*. (eg. to remain within a territorial jurisdiction; to abstain from communicating directly or indirectly with any victim, witness or other person identified in the undertaking);
  - when requesting the condition of depositing a surety as allowed for by section 501(3)(j) of the *Criminal Code*, members must contact the Jail NCO for assistance;
  - as a result of the opioid crisis, the Public Prosecution Service of Canada (PPSC) issued a directive that seeks to address drug traffickers and other people with substance use disorders. This [checklist](#) will assist members in preparing bail documents requesting area restrictions for drug arrests;
  - if imposing conditions via an undertaking, a timely investigation is required and Crown Counsel must receive the completed report to Crown Counsel (RTCC) at the earliest opportunity.
- The RTCC must be submitted to Crown Counsel at least three weeks in advance of the court date.

### Court Appearance: Location and Times

- For adult court matters, the location for all ANs or undertakings shall be Courtroom 307 of Provincial Court, 222 Main Street, Vancouver, BC. The day of the week/hour shall be determined by the person's last name as follows:

| Provincial Crown Matters |                         |                           | Federal Crown Matters    |                         |                           |
|--------------------------|-------------------------|---------------------------|--------------------------|-------------------------|---------------------------|
| Last Name Beginning with | Day of First Appearance | Courtroom Number and Time | Last Name Beginning with | Day of First Appearance | Courtroom Number and Time |
| A - F                    | Monday                  | Courtroom 307, 1400 hrs   | A - F                    | Monday                  | Courtroom 307, 0900 hrs   |
| G - L                    | Tuesday                 | Courtroom 307, 1400 hrs   | G - L                    | Tuesday                 | Courtroom 307, 0900 hrs   |

|       |           |                         |       |           |                         |
|-------|-----------|-------------------------|-------|-----------|-------------------------|
| M - R | Wednesday | Courtroom 307, 1400 hrs | M - R | Wednesday | Courtroom 307, 0900 hrs |
| S - Z | Thursday  | Courtroom 307, 1400 hrs | S - Z | Thursday  | Courtroom 307, 0900 hrs |

4. If the day selected happens to be a **statutory holiday**, members shall select the same day in the following week.
5. When there are two or more people charged jointly with the same offence or charged with offences arising from the same incident, each person shall be given the same court date based on the first letter of the last name of the person who appears first when the last names are placed in the alphabetical order.

### Downtown Community Court (DCC)

The DCC is the court of first appearance for people charged with the following categories of offences, committed within District 1 and District 2 west of Clark Drive, for which they have been held in custody for court or have been compelled to court via an AN or undertaking:

- Provincial offences heard by a Provincial Court Judge (eg. “Driving while prohibited” *Motor Vehicle Act* and *Safe Streets Act* offences);
- *Criminal Code* offences that fall under the Provincial Court’s absolute jurisdiction (e.g., Theft Under \$5000);
- All strictly summary conviction offences;
- Hybrid offences where the Crown proceeds summarily except for intimate partner violence investigations which must be returned to 222 Main Street;
- “Simple” drug possession charges under the *Controlled Drug and Substance Act* (Section 4(1) CDSA); and
- Breach of DCC orders.

### Court Appearance: Location and Time

6. For DCC matters, members shall allow a minimum five business days after the AN or undertaking is issued for the first court appearance. For files that require further investigation, members may allow up to four weeks for the person to appear in court. The time and location details on all ANs and undertakings shall be 0900 hrs, in Courtroom 1, 211 Gore Avenue, Vancouver, BC.

### All Courts: Fingerprinting and Photographs

If a person is not fingerprinted for an offence and is convicted of that offence, that conviction will not form part of their official criminal record.

7. Fingerprinting/photographs and the court date are to be scheduled **one clear business day apart** (eg. Court date is Thursday, fingerprints and photographs should be scheduled on Tuesday).
8. Fingerprinting takes place **Monday to Friday, except holidays**, between 0900 and 1400 hrs at the Vancouver Police Department, 236 East Cordova Street, Vancouver, BC.
9. If the person has already been fingerprinted and photographed for the offence while at the Vancouver Jail:
  - a. void the “Print” section of the AN or undertaking by drawing a line through the section and initialling; and

- b. write "PRINTED AT JAIL" across the top of the top/white copy of the AN or undertaking.

### Information Required on ANs and Undertakings

10. A full description of the person shall be noted on the back of the police copy (undertaking and AN) including:
  - a. height;
  - b. weight;
  - c. scars, marks and tattoos;
  - d. hair colour;
  - e. facial hair, if any; and
  - f. any other prominent feature to assist with identification of the person.
11. The person shall be given a copy marked for "Accused."
12. The member who issued the AN shall swear or affirm the affidavit of service on the back of the AN. For undertakings, the issuing member must complete the certificate of service on the rear of the original undertaking.
13. The AN (white and yellow copy) shall be submitted as an attachment. The general occurrence (GO) report number must be clearly marked at the top of the AN.
14. The undertaking shall be submitted as attachments to the file as indicated on the bottom of the forms. For Vancouver Jail undertakings, the following procedure must be followed:
  - a. the Jail NCO shall add a PS/PW page in PRIME for Crown counsel's information - titled: Jail NCO issued undertaking.
  - b. the issuing member shall make three copies of the undertaking, and disseminate as follows:
    - i. one copy for the person being released;
    - ii. one copy for the Jail NCO's records;
    - iii. one copy for the Jail Records Guard, who will then attach it to the Booking Sheet;
    - iv. fax a copy to CPIC at 604-665-3454;
      - a copy of the undertaking must be faxed to CPIC at 604-665-3454 to ensure that the release conditions are placed on CPIC in a timely manner. The attachment package shall be left with the Jail NCO, so that the arresting member may have access to it at any time to support a breach arrest. This will also allow the Jail NCO to be cognizant of any incomplete RTCCs with upcoming court dates.
    - v. the original undertaking shall either:
      - be submitted to Crown Liaison Unit (CLU) within the file; or
      - in the case of an outside agency, be mailed directly to the outside agency via post at the time of service (instead of being submitted to CLU).

### Reports

15. The RTCC should be completed and submitted on the day that the person was released on the AN or undertaking. If the investigation cannot be completed on this day, the investigating member must complete as much of the RTCC as possible before the end of shift, indicating:
  - a. any missing evidence that will be forthcoming with information on when follow-up is expected to be completed and by whom; and
  - b. the public interest concern(s) for which the condition(s) of release were given (undertaking files).



16. Files with undertakings shall be treated like “in custody” files, with the end of the shift being the target completion time. As much evidence as possible should be compiled before the end of shift to support any breach of undertaking arrest that may occur between the time of arrest and that of RTCC file submission.
17. Crown counsel requires a minimum of three weeks before the person’s first appearance to review RTCCs for charge approval (except in DCC cases).

## 1.6 Incident Investigations

### 1.6.8 Completion of Investigations

(Effective: 2003.01.22)

1. Members conducting a primary investigation shall inform the complainant/victim of one of the following case dispositions and will make specific note of the disposition in their report:
  - a. charges will be requested by the investigating member;
  - b. charges will be requested by the investigating member; however, given the nature of the offence, Crown Counsel Charge Approval Policy would likely negate prosecution;
  - c. the case will be forwarded to the appropriate Specialty Squad for further investigation;
  - d. insufficient evidence exists to substantiate a criminal charge;
  - e. the incident is a civil dispute and that no criminal charges will be processed; or
  - f. the case is inactive and no further police action will be taken, pending receipt of further information.
2. Members shall ensure that all victims are advised of the services available to them as legislated by the *Victims of Crime Act* and direct any victims that need additional information to the Victim Services Unit.
3. Whenever victims are unable to represent themselves (unconscious, missing, etc.), the investigating member shall ensure that next-of-kin is notified. If the victim is a foreign national and no next-of-kin is available, members shall advise the victim’s embassy/consulate whenever practicable. (Section 1.6.10(iii) - Foreign Nationals)
4. When a member forwards a case for further investigation by a detective or specialty squad, the involved squad supervisor shall determine if there is sufficient criteria to warrant a follow-up investigation. Members conducting primary investigations who wish to follow-up their own cases shall be responsible for ensuring that another section is not conducting a follow-up of the same investigation. Members shall receive authorization from a NCO prior to conducting a follow-up investigation.
5. Criteria for follow-up investigation:

Without restricting the decision making ability of the primary investigator or the detective supervisor in deciding which cases will be forwarded or assigned for follow-up, the following criteria should be considered:

  - a. Solvability factors:
    - Named suspect or the suspect can be readily identified;
    - Physical evidence is available which will identify the suspect(s) and provide evidence to support a charge; and
    - Similar fact patterns which will serve to identify the suspect through a series of offences.
  - b. Nature of Offence:
    - Monetary loss;

- Injury or the likelihood of injury; and
  - High profile offences where Department or public interest warrant conducting a secondary investigation.
- c. On completion of the secondary investigation, the secondary investigating member shall notify the complainant of one of the following:
- The case is inactive and no further police action will be taken pending receipt of further information;
  - The investigation is concluded and the Vancouver Police Department has laid charges which have been approved by Crown Counsel; or
  - The investigation is concluded. Crown Counsel has been consulted and declined to proceed with charges.